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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Iowa state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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ED 382 526

Antidote: Civic Responsibility

Iowa Law

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Lesson 1

1. Has Aimee violated any state laws? Have her parents?

Aimee has violated no Iowa law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

Aimee and Carrie's parents, however, may be in violation of the law for leaving the children unsupervised. Iowa law states that a parent commits child endangerment if the parent knowingly acts in a manner that creates a substantial risk to a child or minor's physical, mental or emotional health or safety, or if the parent willfully deprives the child or minor of necessary food, clothing , shelter, health care or supervision appropriate to the child's age when the person is reasonably able to make the necessary provisions and which deprivision substantially harms the child. Arguably, Carrie needed more supervision than Aimee. Iowa Code Ann. §726.6 (West 1993). Depending on how frequently Aimee was left in charge and for how long, the parents may be acting unlawfully. If the children were continually put in grave danger, they could be removed from their parents' home.

2. Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?

No. Tyrell may not drink wine without his parent's consent. Iowa Code Ann. §§123.47 & 47A (West Supp. 1993), however, makes it lawful for persons under 21 to possess alcoholic beverages in a private home with the knowledge and consent of the parent or guardian for beverage or medicinal purposes or as administered by a physician or dentist.

3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?

Yes. "It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance . . . or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance." Iowa Code Ann. §124.401 (West 1992). Maria provided her roommates with a link critical to their getting marijuana, thus she could be charged with delivering a controlled substance. Additionally, she could be charged with conspiracy since she provided the information and assisted them violate the law, obtain possession of marijuana.

4. Have Adam and Alex broken any laws other than those against drinking and fighting?

Yes. Since Joe died as a consequence of a fight with the twins, Adam and Alex will likely be criminally charged for

their behavior. They could be charged with involuntary manslaughter for unintentionally causing the death of another by the commission of a public offense other than a forcible felony or escape. Iowa Code Ann. §707.5 (West 1992). They could alternatively be charged with a lesser offense such as assault. Assault is any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act. Iowa Code Ann. §708.1 (West 1993)

5. Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?

Carlos may be in violation of Iowa Code Ann. §123.47A (West Supp. 1993) if he provided alcohol to TJ. TJ is in violation of this section for possessing alcohol.

Both Carlos and TJ are violating Iowa's prohibition against using or consuming alcoholic liquor, wine or beer upon the public streets or highways by drinking in Jose's car. Iowa Code Ann. §123.46(2) (West 1992).

6. Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?

Dr. Melrose is violating not only state law, but federal law too. Under 21 U.S.C.A. § 829, a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Dr. Melrose is violating Iowa law. "It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance . . . or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance." Iowa Code Ann. §124.401 (West 1992). Since he is issuing prescriptions without a patient have a legitimate medical need he is violating this law and committing malpractice.

7. Is Danielle violating any law by taking only one or two pills from someone else's prescription?

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she is violating 21 U.S.C.A. § 829, which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner. She is also violating 21 U.S.C.A. § 843, which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge and 21 U.S.C.A. § 844 which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

There are several Iowa laws Danielle has broken. "It is unlawful for any person to manufacture, deliver, or possess with intent to manufacture or deliver, a controlled substance." Iowa Code Ann. §124.401 (West 1992). Further, "it is unlawful for any person knowingly or intentionally to possess a controlled substance unless such substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice. . ." Id. Danielle additionally has misappropriated property entrusted her by using it in a manner inconsistent with the trust or owner's rights in the property. Iowa Code Ann. §714.1 (West 1992).

8. Is Renee breaking any law even though she is not selling drugs herself?

Even thought she is not selling drugs directly, Renee is violating several state and federal laws. She is violating 21 U.S.C.A. § 841 prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. § 844 prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of her using children in her scheme. Under 21 U.S.C.A. § 859, the distribution of a controlled substance to a person under 21 year of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860, which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

Additionally, Renee is violating several Iowa laws. "It is unlawful for any person to manufacture, deliver, or possess

with intent to manufacture or deliver, a controlled substance . . . or to act with, enter into a common scheme or design with, or conspire with one or more other persons to manufacture, deliver, or possess with intent to manufacture or deliver a controlled substance." Iowa Code Ann. §124.401 (West 1992). Her sale of drugs on the playground is in clear violation of this section. She is also violating Iowa Code Ann. §§ 124.401A and 124.406 (West 1992) by selling drugs to persons over and/or under 18, respectively, in a public park and Iowa Code Ann. § 709A.1 (West 1992) by enlisting Mary to violate Iowa law by selling drugs. In addition to these violations Renee may be charged with child abuse or neglect and have action taken to remove her children from her custody.

9. Did Jim violate any law other than those regarding controlled substances?

Their heroin use is a felony under federal drug-control statutes. 21 U.S.C.A. § 841 prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance. 21 U.S.C.A. § 844 prohibits simple possession of a controlled substance.

Jim transmitted the HIV virus to Andre through the shared needle. Iowa has not yet dealt with this issue. Under the Model Penal Code, however, Jim's behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989).

10. Has the bartender or owner of Bulldog's Bar & Grill violated any law?

Yes. Iowa law prohibits the selling, dispensing or giving of any alcoholic liquor, wine or beer to any intoxicated person or person simulating intoxication. Iowa Code Ann. §123.49 (West 1992). Both the owner of Bulldog's and the bartender will be held liable for giving the drink to Su.

Bulldog's owner and bartender will be civilly liable to any person injured or property damaged since the alcohol was sold by Bulldog's to Su if the bartender, the employee of the owner, knew or should have known the person was intoxicated or that s/he served Su a quantity of alcohol that should have indicated the person would become intoxicated. Iowa Code Ann. §123.92 (West 1992).

Lesson 2

CRIMINAL JUSTICE STATISTICS:
DRUG AND ALCOHOL RELATED OFFENSES
UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990
A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment for up to 25 years, and • fine of $5000 to $100,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for up to 25 years, and • fine of $5,000 to $100,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for up to 10 years, and • fine of $1000 to $50,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for up to 25 years, and • fine of $5000 to $100,000
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for up to 10 years, and • fine of $1000 to $50,000

Cite: Iowa Code §124.401

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

Lesson 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §321.281 it is illegal to drive while under the influence of alcohol or with a BAC of 0.13 or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

Under Iowa law there is no distinction.

4. **What are the penalties for being convicted of DWI? DUI?**

CONVICTION	PUNISHMENT
Section 321.281; first conviction	• minimum of 48 hours in jail, and • fine of $500 to $1000, OR • 50 to 200 hours of community service
second conviction	• minimum of 7 days in jail, and • fine of not less than $750
third and subsequent convictions	• imprisonment for up to five years, and • fine of $750 to $ 7500

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §321B.4 a person is deemed to have given consent to breath test if s/he drives upon the roads of Iowa. Under §321B.13 if a person refuses to take the test his/her license will be suspended 240 days for first refusal and 540 days for subsequent refusals.

6. **What must a person's blood alcohol content (BAC) be before he/she is legally intoxicated?**

A person's BAC must be 0.13 to be legally intoxicated in Iowa.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. Iowa law does not provide a lower BAC for persons under 21.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

False. Under §123.28 it is illegal to transport or possess an open container of alcohol in a motor vehicle.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and

12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.